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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,718	05/23/2001	Rick Korczak	47176-00693USP1	1494
24628	7590	08/11/2004	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			BAXTER, GWENDOLYN WRENN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,718

Applicant(s)

KORCZAK ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 and 52-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-33, 37-50, 52-56 and 70 is/are allowed.
- 6) ☒ Claim(s) 1-10, 17, 18, 34-36, 57, 58, 62 and 66-69 is/are rejected.
- 7) ☒ Claim(s) 11-16, 19-25, 59-61, 63-65 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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This is the fifth office action for serial number 09/863,718, Stackable Transmission Line Hanger, filed on May 23, 2001. Applicant has filed a Request for Continued Prosecution April 1, 2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 10, 17 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,612,509 to Market. Market teaches a one or more stackable line hangers. Each hanger comprises a line retention section (42), and a mounting section (38). The line retention section for accommodating a line (18) includes first and second legs (42) extending therefrom. The first and second legs allow the hanger to accommodate various sizes of lines. The first and second legs each including a locking barb (32) configured to lock against an attachment surface (30). The mounting section (near 38,40) extends from the line retention section. The mounting section includes a mounting opening (38) disposed therein. The line retention section and the mounting section are arranged to dampen line vibration. The locking barb is configured to lock against the attachment surface once the locking barb is inserted through an aperture (28) of the attachment surface. The locking barb is configured to lock against the supporting structure once the locking barb is inserted through an aperture of the supporting structure. The locking barb is configured to lock against the mounting section once the locking barb is inserted through the mounting opening. The mounting opening is

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defined by a wall having a lip (40). The locking barb includes a notch (the space provided between 36) that is configured to lock against the lip once the locking barb is inserted through the mounting opening. The locking barb includes two notches (the spaces defined between three of the elements 36) that are configured to lock against the lip once the locking barb is inserted through the mounting opening. The mounting opening is square. A compliant area (44) is disposed between the retention section and the mounting section and configured to allow the first and second legs to be compressed toward each other and to expand away from each other by spring force. The hanger is formed of an insulative polyethylene and plastic materials (column 5, lines 34+), which would inherently absorb vibrations seen by the hanger due to external forces.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Market. Market teaches the limitations of the base claim, excluding the mounting opening being circular shaped. It would have been an obvious matter of design choice to have made the square mounting opening as taught by Market to have made mounting opening circular, since

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such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Market.

Market teaches the limitations of the base claim, excluding the line hanger being formed of metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the elastomeric material of the line hanger as taught by Market for the line hanger formed by metal in this case a spring metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 5 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Market. Market teaches the limitations of the base claim, excluding the lip extending around the entire mounting opening. It would have been an obvious matter of design choice to have modified the lip as taught by Market, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Claims 57, 58, 62 and 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,746,701 to Carpenter in view of U.S. Patent No. 2,494,881 to Kost. Carpenter teaches a hanger having a generally U-shaped body (1) with arms (4), which grip a line (17). Distal ends of the arms have barbs (11) structured to snap lock onto an edge of an opening in a line support (20). The hanger arms each has an outwardly extending rigid and structured brace (8), which abuts an opposite surface of the edge from that engaged by a barb.

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However, Carpenter fails to teach the brace is to dig into rather than slide along the opposite surface when the hanger is sided loaded.

Kost teaches a U-shaped hanger (5) including a brace (17) having an end member (18) that digs into the surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the brace as taught by Carpenter to have incorporated the end member as taught by Kost for the purpose of securing the hanger relative to the support.

Allowable Subject Matter

Claims 26-33, 37-50, 52-56, and 70 are allowed.

Claims 11-16, 19-25, 59-61, 63, 64 and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-49, 50, and 52-70 have been considered but are moot in view of the new ground(s) of rejection.

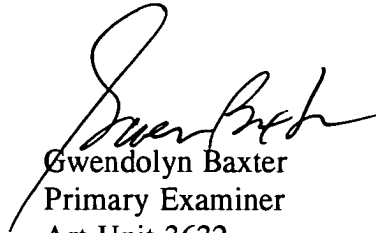
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
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August 7, 2004